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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,897	11/27/2002	Mark E. Addis	EH-10713(04-532)	5298
52237	7590	05/22/2006	EXAMINER	
BACHMAN & LAPOINTE, P.C. (P&W)			HARTMANN, GARY S	
900 CHAPEL STREET				
SUITE 1201			ART UNIT	PAPER NUMBER
NEW HAVEN, CT 06510-2802				3671

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/065,897	ADDIS, MARK E.	
	Examiner	Art Unit	
	Gary Hartmann	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 February 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 7,9-14,23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 7,9-14,23 and 24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 9-14 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffelner (U.S. Patent 5,026,252) in view of Hoffelner (U.S. Patent 5,688,105 or GB 2 304 158).

Hoffelner '252 discloses a brush seal with a bristle arrangement (2) having a retention section (not shown, but inherent since the bristles are retained in a specific configuration). There are a pair of plates (8, 9), each having a surface which abuts, contacts and flanks the bristle arrangement (Figure 1, for example). There is a channel (Figure 1, for example) to frictionally engage the retention section. The channel extends to ends of the plates. Movement of the retention section is prevented after the plates are secured together and movement would inherently be allowed prior to securing the plates together. While the specifics of the retention section are not shown, as the invention is directed elsewhere, Hoffelner does teach, in the '105 and '158 patents, a retention section configured in the manner claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the retention section of the '105 and '158 patents with the '252 patent in order to securely retain the bristle arrangement.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffelner, as applied above, and further in view of Wolfe et al. (U.S. Patent 6,250,640).

Hoffelner is silent regarding the configuration of the retention section; however, Wolfe et al. teaches using a weld joint to secure the bristles together. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the weld joint of Wolfe et al. in the retention section of Hoffelner in order to securely retain the bristles.

Response to Arguments

Applicant's arguments filed February 27, 2006 have been fully considered but they are not persuasive. Applicant is correct in the statement that the examiner assumes there is a retention section. This assumption is made because, without a retention section, the bristles would not be retained in place. Applicant appears to be arguing that since there is no retention section discussed, the bristles must not be retained in place. The examiner maintains that the apparatus of Hoffelner '252 inherently has a retention section. The examiner has relied upon the other Hoffelner references for a teaching of the retention section. The examiner maintains that it is not beyond ordinary skill to have used the teaching of the same inventor for a retention section in a reference that lacked specifics regarding the retention section, since the invention of the latter reference was directed elsewhere.

The limitations regarding the movement allowed by the channel before securing the plates together is not germane to the apparatus claim, as the manner in which the apparatus was assembled (i.e., movement allowed before, not allowed after) cannot patentably distinguish an apparatus. If applicant wishes for this to receive patentable weight, an application directed

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toward a method of assembling would have to be filed. None the less, because plates are secured together, parts would have been free to move about as desired before assembling was complete. This is sufficient to meet claim limitations.

Regarding the limitation of "frictionally engage," one skilled in the art would look to Figures 1, 3a and 3b of Hoffelner ('105 and '158) and consider the plates to be touching the retention section. This is all that is necessary to meet the recitation of "frictionally engage."

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 571-272-6989. The examiner can normally be reached on Monday through Thursday, 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Hartmann
Primary Examiner
Art Unit 3671

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